



COMMONWEALTH of VIRGINIA

DEPARTMENT OF ENVIRONMENTAL QUALITY

PIEDMONT REGIONAL OFFICE

4949-A Cox Road, Glen Allen, Virginia 23060

(804) 527-5020 Fax (804) 527-5106

www.deq.virginia.gov

W. Tayloe Murphy, Jr.
Secretary of Natural Resources

Robert G. Burnley
Director

Gerard Seeley, Jr.
Piedmont Regional Director

STATE AIR POLLUTION CONTROL BOARD ENFORCEMENT ACTION ORDER BY CONSENT ISSUED TO METL-SPAN I, L.P. Registration No. 51312

SECTION A: Purpose

This is a Consent Order issued under the Authority of Va. Code § 10.1-1309 and 10.1-1316. C between the State Air Pollution Control Board and Metl-Span I, L.P. for the purpose of resolving certain alleged violation(s) of its Minor New Source Review Permit, environmental laws, and regulations, and to provide for the payment of civil charges.

SECTION B: Definitions

Unless the context clearly indicates otherwise, the following words and terms have the meanings assigned to them below:

1. "Va. Code" means the Code of Virginia (1950), as amended.
2. "Board" means the State Air Pollution Control Board, a permanent collegial body of the Commonwealth of Virginia as described in Va. Code §§ 10.1-1301 and 10.1-1184.
3. "Department" means the Department of Environmental Quality, an agency of the Commonwealth of Virginia as described in Va. Code § 10.1-1183.
4. "Director" means the Director of the Department of Environmental Quality.
5. "Order" means this document, also known as a Consent Order.
6. "Regulations" mean the State Air Pollution Control Board Regulations for the Control and Abatement of Air Pollution 9 VAC 5-10-10 *et seq.*

7. "Metl-Span " means Metl-Span I, L.P. , a limited liability partnership registered to do business in Virginia.
8. "Facility" means Metl-Span, located at 6001 Quality Way, Prince George County, Virginia.
9. "PRO" means the Piedmont Regional Office of DEQ, located in Glen Allen, Virginia.
10. "Permit" means the Minor New Source Review Permit issued to Metl-Span on February 4, 2000.

SECTION C: Findings of Facts and Conclusions of Law

1. Metl-Span operates an architectural metal panel coating facility located at 6001 Quality Way, Prince George County, Virginia. This facility is the subject of the Minor New Source Review Permit issued on February 4, 2000.
2. The Department of Environmental Quality, Piedmont Regional Office (PRO) performed an air compliance inspection on August 27, 2003.
3. On September 15, 2003, the Department issued a Request for Information (RFI) relating to records and data required to be maintained by the February 4, 2000 permit. The RFI required the information to be submitted by September 30, 2003. Subsequent to the September 15, 2003 Request for Information, Metl-Span, as part of what it maintains was a voluntary environmental audit, verbally requested permission to test its regenerative thermal oxidizer (RTO) at temperatures below the permitted 1600 degrees Fahrenheit. Authorization was granted to Metl-Span to operate the RTO at temperatures below the required 1600 degrees Fahrenheit for three one-hour test runs.
4. On September 29, 2003 Metl-Span requested an extension to the September 30, 2003 information submission requirement of the RFI.
5. On September 30, 2003 the Department granted an extension of the RFI until October 10, 2003, and subsequently Metl-Span's response was received by the Department on November 6, 2003.
6. On November 18, 2003, the Department received notification that the October 15, 2003 stack test of the RTO was inconclusive due to operational and testing issues. Additionally, Metl-Span requested permission to rerun the RTO stack tests on Thursday, November 20 and requested permission to run 3 one-hour test runs at 1500 degrees Fahrenheit. Metl-Span's February 4, 2000 permit requires the RTO to be operated at 1600 degrees Fahrenheit.
7. On November 19, 2003 the Department granted Met-Span's November 18, 2003 request.

8. On January 23, 2004 the Department received a letter from the Facility which included the November 20, 2003, RTO stack testing results, and asserted the applicability of the Environmental Assessment Privilege statute, Va. Code § 10.1-1198 and § 10.1-1199. The letter also requested a meeting to discuss the elimination of an uncontrolled emissions source authorized by the Permit and to explore other actions Metl-Span was considering that would result in an reduction of air emissions from the Facility.
9. In a February 2, 2004 letter, the Department provided the Facility with the basis for the Department's determination that the Environmental Assessment Privilege statute did not apply in this situation.
10. On February 9, 2004, a meeting was conducted between Metl-Span and the Department to discuss the analysis of the information received on November 6, 2003, the Environmental Assessment Privilege determination and the analysis of the November 20, 2003 RTO stack test. The Department noted at the meeting that the November 20, 2003 RTO stack test was flawed and did not meet the EPA or Department protocols necessary for the data to be accepted as valid. However, the test report did identify areas of concern, both Metl-Span and the Department wished to address.
11. On March 8, 2004, a Notice of Violation was issued to Metl-Span citing the following potential violations:
 1. Exceedance of the VOC limit of 5.6 lbs/hr as required in the Permit. (Condition Number 17 of the February 4, 2000 permit).
 2. Operation of the RTO below 1600° F as required by the Permit. (Condition Number 4 of the February 4, 2000 permit).
12. All prior inspections of Metl-Span by the Department since the Permit was issued resulted in a determination by the Department that Metl-Span was in compliance with its Permit.
13. On March 17, 2004, the Department received Metl-Span's response to the March 8, 2004, Notice of Violation.
14. On May 3, 2004, the Department received a complete permit application resulting in a modified permit being issued on July 19, 2004.
15. On May 25, 2004, the Facility conducted a stack test of the RTO, and submitted the results of the stack test on August 23, 2004. The stack test satisfactorily met the requirements of the approved test protocol.

SECTION D: Agreement and Order

Accordingly, the Board, by virtue of the authority granted it in Va. Code § 10.1-1316 C, orders Metl-Span, and Metl-Span, without admitting any liability and solely for the purposes of resolving this matter and avoiding the burden and uncertainty of further disputes and possible litigation, voluntarily agrees to pay a civil charge of \$3,000 within 30 days of the effective date of the Order in settlement of the alleged violations cited in this Order. Payment shall be by check, payable to “Treasurer of Virginia”, and delivered to:

Receipts Control
Department of Environmental Quality
Post Office Box 10150
Richmond, Virginia 23240

Payment shall include the Federal Tax Identification Number of the facility.

SECTION E: Administrative Provisions

1. The Board may modify, rewrite, or amend this Order with the consent of Metl-Span, for good cause shown by Metl-Span, or on its own motion after notice and opportunity to be heard.
2. This Order addresses only those alleged violations specifically identified herein including those matters addressed in the Notice of Violation issued to Metl-Span on March 8, 2004. This Order shall not preclude the Board or Director from taking any action authorized by law, including, but not limited to: (1) taking any action authorized by law regarding any additional, subsequent, or subsequently discovered violations; (2) seeking subsequent remediation of the facility as may be authorized by law; and/or (3) taking subsequent action to enforce the terms of this Order. Nothing herein shall affect appropriate enforcement actions by other federal, state, or local regulatory authority, whether or not arising out of the same or similar facts, to the extent such actions are authorized by law.
3. For the purposes of this Order and subsequent actions with respect to this Order, Metl-Span admits the jurisdictional allegations but does not admit factual findings and conclusions of law contained herein.
4. Metl-Span consents to venue in the Circuit Court of the City of Richmond for any civil action taken to enforce the terms of this Order.
5. For purposes of the issuance of this Order only, Metl-Span waives the right to any hearing or other administrative proceeding authorized or required by law or regulation, or to judicial review of any

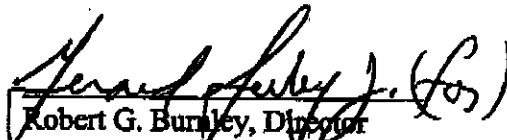
issue of fact or law contained herein. Nothing herein shall be construed as a waiver of the right to any administrative proceeding for, or to judicial review of, any action taken by the Board to enforce this Order.

6. Failure by Metl-Span to comply with any of the terms of this Order shall constitute a violation of an order of the Board. Nothing herein shall waive the initiation of appropriate enforcement actions or the issuance of additional orders as appropriate by the Board or the Director as a result of such violations. Nothing herein shall affect appropriate enforcement actions by any other federal, state, or local regulatory authority to the extent such actions are authorized by law.
7. If any provision of this Order is found to be unenforceable for any reason, the remainder of the Order shall remain in full force and effect to the extent such actions are authorized by law.
8. Metl-Span shall be responsible for failure to comply with any of the terms and conditions of this Order unless compliance is made impossible by earthquake, flood, other act of God, war, strike, or such other occurrence. Metl-Span must show that such circumstances resulting in noncompliance were beyond its control and not due to a lack of good faith or diligence on its part. Metl-Span shall notify the DEQ Regional Director in writing when circumstances are anticipated to occur, are occurring, or have occurred that may delay compliance or cause noncompliance with any requirement of this Order. Such notice shall set forth:
 - a. the reasons for the delay or noncompliance;
 - b. the projected duration of such delay or noncompliance;
 - c. the measures taken and to be taken to prevent or minimize such delay or noncompliance; and
 - d. the timetable by which such measures will be implemented and the date full compliance will be achieved.
9. Failure to so notify the Regional Director within 24 business hours of learning of any condition listed above, which the Parties intend to assert will result in the impossibility of compliance, shall constitute waiver of any claim of inability to comply with a requirement of this Order.
10. This Order is binding on the parties hereto, their successors in interest, designees, and assigns, jointly and severally.
11. This Order shall become effective upon execution by both the Director or his designee and Metl-Span. Notwithstanding the foregoing, Metl-Span agrees to be bound by any compliance date, which precedes the effective date of this Order.
12. This Order shall continue in effect until the Director or Board terminates the Order in his or its sole discretion upon 30 days written notice to Metl-Span. Termination of this Order, or

any obligation imposed in this Order, shall not operate to relieve Metl-Span from its obligation to comply with any statute, regulation, permit condition, other order, certificate, standard, or requirement otherwise applicable.


13. By its signature below, Metl-Span voluntarily agrees to the issuance of this Order.

And it is so ORDERED this day of October 28, 2004.


Robert G. Burnley, Director
Department of Environmental Quality

The terms and conditions of the Order are voluntarily accepted by Metl-Span.

Date: 10/22/04

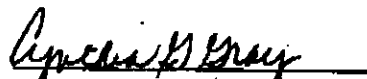

Charles Reynolds
General Manager

State of Virginia

County of Prince George

The foregoing instrument was acknowledged before me this 22nd day of October
2004, by Charles Reynolds, General Manager on behalf of METL-
SPAN I, L.P.

August 31, 2006
My commission expires:
Date


Notary Public

